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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,867	09/22/2005	Noriaki Masuda	JCLA17676	3422

7590  
JC Patents Inc  
Suite 250  
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Irvine, CA 92618

EXAMINER
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ARNADE, ELIZABETH

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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01/21/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/550,867	<b>Applicant(s)</b> MASUDA ET AL.	
	<b>Examiner</b> ELIZABETH ARNADE	<b>Art Unit</b> 1791	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1,2,4-6,8,10 and 11.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Steven P. Griffin/  
Supervisory Patent Examiner, Art Unit 1791

/E. A./  
Examiner, Art Unit 1791

Applicant's arguments have been acknowledged but are not found to be persuasive. Applicant argues that neither Ezoe, Hesse, nor Kobayashi expressly discloses "the content of the luminescent substance in the luminescent glass article is 0.5-2.9 mass%, the luminescent substance having an average particle size of 75 to 5,000 micrometers. The examiner reiterates from the previous rejection in that a mass % of 0.5-2.9% and an average particle size of 75 micrometers would be obvious over Ezoe in view of Hesse for the reasons below.

Although Ezoe et al. does not expressly disclose wherein the content of the luminescent substance in the luminescent glass article is 0.5 to 2.9 mass %, the luminescent substance having an average particle size of 75 to 5,000 micrometers, Ezoe does disclose wherein the content of the luminescent substance in the luminescent glass article is 3-50 mass % (Abstract), the luminescent substance having an average particle size of 5 to 20 micrometers (paragraph [0025]). In other words, Ezoe discloses a higher mass % of luminescent substance and a smaller particle size than the instant claim.

Hesse discloses a closely related invention of a luminescent glass article comprising glass and a luminescent substance, i.e. light accumulating phosphor, wherein the particle size of the luminescent substance is preferably 10 to 70 micrometers but may vary depending on a desired effect (paragraph [0005]). Hesse further discloses that particle size is a result effect variable wherein the larger the particle size, the higher the intensity of luminescence (paragraph [0005]).

It would be obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Hesse with Ezoe to modify the luminescent glass article of Ezoe such that the content of the luminescent substance in the luminescent glass article is 0.5 to 2.9 mass % and the luminescent substance has an average particle size of 75 micrometers. In other words based on a known result effect variable, one may optimize around the prior art ranges of Ezoe to decrease the content of luminescent substance by 0.1% to 2.5% (i.e. 3% reduced to 0.5 to 2.9%) and thus increase the particle size to 75 micrometers in the article such that an equivalent range in desired intensity of luminescence is achieved. The motivation is the rationale that one would optimize the content of luminescent substance in the article for cost efficiency while still maintaining for a desired luminescent effect.